



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

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Vb

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/896,053	07/17/97	JANSSENS	S 0609.4280001

HM12/0316
STERNE KESSLER GOLDSTEIN & FOX
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1100 NEW YORK AVENUE N W
WASHINGTON DC 20005-3934

EXAMINER

BECKERLEG, A

ART UNIT	PAPER NUMBER
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1632

DATE MAILED:

03/16/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Advisory Action

Application No.
08/896,053

Applicant(s)
Janssens

Examiner
Anne Marie S. Beckerleg

Group Art Unit
1632



THE PERIOD FOR RESPONSE: [check only a) or b)]

a) ☐ expires _____ months from the mailing date of the final rejection.

b) ☒ expires either three months from the mailing date of the final rejection, or on the mailing date of this Advisory Action, whichever is later. In no event, however, will the statutory period for the response expire later than six months from the date of the final rejection.

Any extension of time must be obtained by filing a petition under 37 CFR 1.136(a), the proposed response and the appropriate fee. The date on which the response, the petition, and the fee have been filed is the date of the response and also the date for the purposes of determining the period of extension and the corresponding amount of the fee. Any extension fee pursuant to 37 CFR 1.17 will be calculated from the date of the originally set shortened statutory period for response or as set forth in b) above.

☐ Appellant's Brief is due two months from the date of the Notice of Appeal filed on _____ (or within any period for response set forth above, whichever is later). See 37 CFR 1.191(d) and 37 CFR 1.192(a).

Applicant's response to the final rejection, filed on Dec 27, 1999 has been considered with the following effect, but is **NOT** deemed to place the application in condition for allowance:

☒ The proposed amendment(s):

☐ will be entered upon filing of a Notice of Appeal and an Appeal Brief.

☒ will not be entered because:

☒ they raise new issues that would require further consideration and/or search. (See note below).

☐ they raise the issue of new matter. (See note below).

☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal.

☐ they present additional claims without cancelling a corresponding number of finally rejected claims.

NOTE: In particular, it is noted that newly proposed claims 40-41 are significantly broader than the original claims in that they do not limit the administration of the nucleic acid encoding nitric oxide synthase to the lungs.

☐ Applicant's response has overcome the following rejection(s):

☐ Newly proposed or amended claims _____ would be allowable if submitted in a separate, timely filed amendment cancelling the non-allowable claims.

☒ The affidavit, exhibit or request for reconsideration has been considered but does NOT place the application in condition for allowance because:

The applicant's proposed new claims and arguments are not effective in overcoming the instant grounds of rejection of the claims for scope of enablement. The references cited by the applicant's in support of administering any and all

☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

☒ For purposes of Appeal, the status of the claims is as follows (see attached written explanation, if any):

Claims allowed: _____

Claims objected to: _____

Claims rejected: 1-21

☐ The proposed drawing correction filed on _____ ☐ has ☐ has not been approved by the Examiner.

☐ Note the attached Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☒ Other vectors/promoters encoding NOS do not overcome the unpredictability of achieving therapeutic levels of transgene expression in specific cell types such as the lungs using any vector and mode of delivery. The references provided by the applicant demonstrate gene expression in cells in vivo using a variety of vectors, but do not correlate the expression with a therapeutic effect on any disease.

File

Interview Summary

Application No.

08/896,053

Applicant(s)

Janssens

Examiner

Anne Marie S. Beckerleg

Group Art Unit

1632



All participants (applicant, applicant's representative, PTO personnel):

(1) Anne Marie S. Beckerleg

(3) _____

(2) Heidi Kraus

(4) _____

Date of Interview Feb 15, 2000

Type: ☒ Telephonic ☐ Personal (copy is given to ☐ applicant ☐ applicant's representative).

Exhibit shown or demonstration conducted: ☐ Yes ☒ No. If yes, brief description:

Agreement ☐ was reached. ☒ was not reached.

Claim(s) discussed: 1-21

Identification of prior art discussed:

Description of the general nature of what was agreed to if an agreement was reached, or any other comments:

The applicant's representative was informed that the applicant's after final amendment has been received by the office and is under consideration by the examiner of record.

(A fuller description, if necessary, and a copy of the amendments, if available, which the examiner agreed would render the claims allowable must be attached. Also, where no copy of the amendments which would render the claims allowable is available, a summary thereof must be attached.)

1. ☐ It is not necessary for applicant to provide a separate record of the substance of the interview.

Unless the paragraph above has been checked to indicate to the contrary, A FORMAL WRITTEN RESPONSE TO THE LAST OFFICE ACTION IS NOT WAIVED AND MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a response to the last Office action has already been filed, APPLICANT IS GIVEN ONE MONTH FROM THIS INTERVIEW DATE TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW.

2. ☐ Since the Examiner's interview summary above (including any attachments) reflects a complete response to each of the objections, rejections and requirements that may be present in the last Office action, and since the claims are now allowable, this completed form is considered to fulfill the response requirements of the last Office action. Applicant is not relieved from providing a separate record of the interview unless box 1 above is also checked.

Karen M. Haude
Karen M. Haude
Patent Examiner

Examiner Note: You must sign and stamp this form unless it is an attachment to a signed Office action.